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National Academy for State Health Policy

Senate Committee on Health and Welfare

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S. 175 - An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums

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Thank you for the opportunity to testify regarding Vermont's proposal to import prescription drugs from Canada. The National Academy for State Health Policy (NASHP) is a bipartisan, non-profit organization of state health policy leaders from both the executive and legislative branches of government dedicated to helping leaders lead and advancing policy solutions to the challenges states confront. NASHP often proposes options states might pursue and spotlights innovations states have developed but we recognize state policy reflects the unique situations in each state so we do not take positions on legislative proposals.

In 2016, NASHP convened a Pharmacy Costs Work Group to brainstorm and identify strategies states could consider to lower the trajectory of prescription drug costs. Our work took a broad view, recognizing states' roles as purchasers, employers and in protecting consumers. Vermont led the nation in enacting legislation to make drug prices more transparent and we were pleased that the executive director of the Green Mountain Care Board, Susan Barrett, agreed to join our work group. Through its work, we proposed eleven different options a state might consider to address both the rapid rise in prescription drug costs and the unpredictability of those increases. We believe states are the laboratories of innovation and can demonstrate and test approaches that can inform the federal debate. Indeed, many states, including Vermont, had children's health insurance programs before the Congress enacted a national program and states led on insurance reform and other matters before the federal government. We think states can again show the way by demonstrating effective strategies to reduce prescription drug costs. One of the proposals advanced by the work group was the creation of a drug importation program.

States like Vermont are familiar with initiatives to support personal importation of drugs from Canada and some of the safety concerns those mail order programs raised. NASHP's proposal – and the one included in S 175 – creates instead a wholesale distribution program. Federal law allows the Secretary of the US Department of Health and Human Services to approve a program of wholesale drug importation from Canada provided that the program carries no greater safety risk for US residents than the current US system and provides significant savings to consumers. Our proposal and yours will import only selected, high cost medicines from Canada where we know prices are on average 30% lower than in the United States for the same drugs.

A state-administered program of importation can meet both savings and safety requirements and use the State's existing commercial supply chain – state licensed wholesalers, distributors and pharmacies. No new complex distribution system would be required. Importantly, the pharmaceutical industry is already a global one.

The U.S. drug market heavily relies on importation to supply the U.S. market. Currently:

- 80 percent of raw ingredients for drugs made in the United States are imported from other countries;
- 40 percent of finished drugs used in the United States are manufactured in other countries;
- The FDA has had a cooperative agreement addressing drug regulatory matters with Canada for years and more than 30 Canadian drug manufacturers are FDA-registered to produce drugs for U.S. markets; and
- About 20 percent of drugs licensed for the Canadian market are made in the United States.

The safety and purity of the imported prescriptions is a crucial standard in the bill. The bill complies with federal regulations governing drug importation that require guarantees of drug safety and consumer savings. In addition, the legislation requires federal approval from the Secretary of the U.S. Department of Health and Human Services.

This legislation, like NASHP's model, will safeguard the quality and safety of imported drugs by:

- Contracting with licensed, regulated drug wholesalers and distributors in Vermont and Canada;
- Importing only drugs licensed for sale in Canada;
- Testing imported products for purity on a sample basis if needed; and
- Limiting distribution of imported drugs to only Vermonters.

The legislation will deliver significant consumer savings by:

- Ensuring that consumers pay similar prices to those charged in Canada; and
- Widely publicizing the prices of the imported products so consumers know what they can expect to pay.

The state will determine which drugs would produce the most savings for the state health care system. We anticipate that a state program would import a limited number of high-cost products. This legislation will not disrupt current distribution and sales markets. We expect the Vermont program will provide a limited number of high cost drugs to all Vermonters at lower cost and deliver them through current channels. The state becomes a wholesaler, or would contract with a US wholesaler, to operate the program in Vermont. The state would select and contract with one or more licensed, regulated Canadian suppliers. The selected drugs would be shipped to Vermont and the wholesaler would use the existing commercial drug distribution system to get product to pharmacies and other provider sites.

The imports would be licensed and regulated for the Canadian market, and that is a key aspect of quality assurance. The imports would be re-labeled to meet US FDA rules and US claims payment requirements. Drugs can be further identified as an import. The model law anticipates that all payers and providers will participate – which would simplify administration, particularly for pharmacies.

Vermonters, through their health plans and as individual purchasers, can benefit as can the state budget through some lower costs for state employees and other state purchasers, as well as Medicaid.

Medicaid, of course, already enjoys the advantage of "best price" and rebates established by federal law. NASHP's model legislation does not compromise the federal rebate program. Canadian prices are substantially lower for high cost products. New, high-cost products typically do not come with deep discounts in the early years, so that it is likely the Canadian price will be lower for Medicaid than the net price post rebates. An importation program will eliminate the need for supplemental rebate contracts and the rebate mechanism for these products.

The Medicaid drug rebate program is designed to capture, for Medicaid, the best prices in the U.S. market, as controlled by U.S. manufacturers. Because this proposal is importing drugs from a supplier, not a manufacturer, U.S. manufacturers are not selling the imported product and thus are not responsible for, nor in control of, the price provided by the Canadian wholesaler. Prices that count for the Medicaid program are net prices, after all the rebates and other discounts that U.S. manufacturers negotiate with U.S. health insurers, U.S. hospitals, and other U.S. healthcare stakeholders.

In general, a state-administered, wholesale importation program from Canada should not implicate the Medicaid program at all. And the state program will only be importing a limited number of products that drive costs and where the Canadian price will produce significant savings to consumers.

In proposing S 175, Vermont joins several other states proposing to seek Federal authority to enact a drug importation program and NASHP looks forward to bringing you all together to share approaches and to assure success in launching this important program to lower costs of prescription drugs for Vermonters while assuring the safety of the medicines brought in from our neighbors to the north.

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